SUBJECT: Heritage Permit Application (HP2009-023) Under Part V of the Ontario Heritage Act to Demolish an Existing Garage and Construct a New Garage at 130 Mill Street North (Mill Street Heritage Conservation District), Waterdown (PED09207) (Ward 15)

RECOMMENDATION:

That approval be given to Heritage Permit Application (HP2009-023), by Thomas J. Sammon, Owner, to permit the demolition of an existing detached garage and construction of a new detached garage for the designated property at 130 Mill Street North, Waterdown, as shown on Appendix “A” to Report PED09027, subject to the following condition:

(a) This approval expires August 31, 2011.

EXECUTIVE SUMMARY:

130 Mill Street North is a residential property, located within the Mill Street Heritage Conservation District (HCD) in Waterdown, designated under Part V of the Ontario Heritage Act. A heritage permit is required for the demolition of existing structures or construction of new structures on the property. The property owner is applying for consent to demolish the existing garage fronting Mill Street North, and construct a new garage to the rear of the property, accessing Queen Street. The subject application satisfies the intent of the applicable HCD guidelines. The Hamilton Municipal Heritage Committee has advised approval of the proposed work, and staff is recommending approval of the application, as submitted.
BACKGROUND:

The subject property at 130 Mill Street North, Waterdown (Appendix “A”) is located in the Mill-John-Union-Griffin Heritage Conservation District (HCD), designated by the former Town of Flamborough, and approved by the Ontario Municipal Board in 1996 under Part V, Section 41, of the Ontario Heritage Act. Under Section 42 of the Ontario Heritage Act, a permit is required for the demolition of any existing building or structure, and/or the construction of a new building or structure. Demolition and construction are not approvals delegated to staff, and only the Council of the municipality may issue such permits.

The subject property comprises a two storey vernacular Queen Anne house of red veneer brick, with a projecting bay and gable on the southwest (front) façade, built ca. 1890-1905. The roof is otherwise hipped gable over the rectangular building. The bay features one window centered on each floor: arched on the main and second floor, and semi-circular on the gable above. The front door and a window comprise the other bay on the main and second floors, respectively, and a one storey porch spans the front façade: all windows are one-over-one. The residential building on the corner lot fronts Mill Street, and has a side yard along Queen Street, forming the east corner of this intersection. The existing driveway accesses Mill Street North, to the southeast (right) of the residence, and leads to a free-standing, one-story, one-bay garage beside the house (Appendix “B”). The garage is frame construction, with board-and-batten cladding, a modern garage door, and a modern octagonal window above the door: a 1960’s construction date is ascribed to the garage by the Owner.

The proposed alterations comprise:

- Demolition of the existing garage at the front of the property, accessing Mill Street North; and,

- Construction of a new garage to the rear of the property (Appendix “C”), accessing Queen Street. The proposed frame structure is front-gable, with a gable-dormer over the side walk-in door: roofing is cedar shingle, with board-and-batten cladding. The Queen Street (northwest) elevation comprises the garage door, with a single window in the gable over the door: the southwest elevation facing the house is symmetrical, with a central walk-in door and one window on each side. The southeast (rear) elevation has a single window in the gable, mirroring the front elevation, while the northeast elevation has no windows.

The Heritage Permit Review Subcommittee and the Hamilton Municipal Heritage Committee reviewed this application and advised approval of the proposed new construction and demolition.
ANALYSIS/RATIONALE:

According to the Ontario Heritage Act, Section 42, no Owner of property designated under Section 41 of the Act shall demolish or remove a building or structure on the property, or permit the demolition or removal of a building or structure on the property unless the Owner applies to the Council of the municipality in which the property is situate and receives consent, in writing, to the demolition or removal. The Council, after consultation with its Municipal Heritage Committee may, under Section 42(4):

- Consent the application;
- Consent to the application, subject to such terms and conditions as may be specified by the Council; or,
- Refuse the application.

If Council refuses to approve the application, the Owner can appeal the matter to the Ontario Municipal Board.

Key factors that are considered in the evaluation of any change affecting a heritage building, or its setting, are consideration of “displacement effects” (those adverse actions that result in the damage, loss, or removal of valued heritage features) and “disruption effects” (those actions that result in detrimental changes to the setting or character of the heritage feature).

Displacement: Demolition of the existing garage is a displacement, but not determined to be significant as this is not a structure of heritage value. The late date of construction for the existing garage, and the subsequent alterations in cladding and fenestration of the structure, result in it having limited significance with respect to the subject property and the district.

Disruption: Construction of the new garage at the rear of the property effects a change in the landscape of the subject property. However, this alteration does not substantially impact the landscape, and is in keeping with the general character of the district. Placement of the new garage to the rear of the property is consistent with the general character of the district and other corner lots. The proposed garage is considered appropriate to the property.

ALTERNATIVES FOR CONSIDERATION:

1. **Refuse the heritage permit application for demolition.**

   This permit application has been considered in the context of provincial heritage legislation, the City of Hamilton Official Plan policies, and current heritage conservation best practices. There is no heritage conservation rationale to
Subject: Heritage Permit Application (HP2009-023) Under Part V of the Ontario Heritage Act to Demolish an Existing Garage and Construct a New Garage at 130 Mill Street North (Mill Street Heritage Conservation District), Waterdown (PED09207) (Ward 15) - Page 4 of 5

Refuse the heritage permit to demolish the existing garage and construct a new garage.

2. Approval of the heritage permit for demolition with no conditions.

As noted previously, removal of the existing garage and construction of a new garage do not in and of themselves significantly displace or disrupt the designated features on the subject property. Approval of the heritage permit application for this work without an expiry date, as proposed in the recommendation, provides an open-ended permit with no set schedule for completion.

Financial/Staffing/Legal Implications:

Financial - N/A.

Staffing - N/A.

Legal - This heritage permit application has been processed and considered within the context of the applicable legislation. Section 42(1) of the Ontario Heritage Act states that: “No owner of property situated in a heritage conservation district that has been designated by a municipality under this Part shall do any of the following, unless the owner obtains a permit from the municipality to do so: 2. Erect, demolish, or remove any building or structure on the property or permit the erection, demolition, or removal of such a building or structure.” Within 90 days after receipt of an application under Subsection (1), the Council, after consultation with its Municipal Heritage Committee may: i) consent to the application; ii) consent to the application, subject to such terms and conditions as may be specified by the Council; or iii) refuse the application. The Ontario Heritage Trust must be notified of the Council decision.

If after 90 days no decision has been made by Council, the application is deemed to have been approved.

Policies Affecting Proposal:

City of Hamilton Official Plan

Subsection E.2 - Heritage Preservation: The former Town of Flamborough’s Official Plan provides for the management of the wealth of local heritage resources. The policies also provide for the designation of heritage conservation districts under Part V of the Ontario Heritage Act, and for the preparation of criteria to regulate design. Alterations, additions, new construction, and demolitions within the Mill Street HCD are guided by the Heritage Conservation District Plan Guidelines. The subject permit application is considered to be in keeping with these guidelines.
RELEVANT CONSULTATION:

Pursuant to Subsections 42(1) and 42(4.1) of the Ontario Heritage Act, the City of Hamilton Municipal Heritage Committee (MHC) advises and assists Council on matters relating to Part IV and Part V of the Ontario Heritage Act. At its meeting of June 25, 2009, the City of Hamilton MHC considered this application, together with a staff memorandum, and recommended to Council that the subject application be approved, subject to the following condition:

- This approval expires August 31, 2011.

This condition is included as part of the recommended approval.

The Hamilton Municipal Heritage Committee did express concern about possible tree removal, and staff will advise the applicant, in writing, that this approval does not include any removal of trees. Any tree removal would be subject to a new heritage permit application.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

The recommendation to approve this application would achieve the following triple bottom line objectives as follows:

Community Well-Being is enhanced. ☑ Yes ☐ No
Arts, culture, archaeological, and cultural heritage are supported and enhanced.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No
Yes, as noted above. These are complementary benefits.

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes ☐ No
The creation of a respectful, desirable, and supportive workplace through the practice of effective and consistent process to ensure quality work and product.

:JPM
Attachs. (3)
Appendix "A" to Report PED09207

Location Map

File Name/Number: HP2009-023
Date: June 24, 2009

Appendix "A"

Scale: N.T.S.
Planner/Technician: JM/SL

Subject Property

130 Mill Street North, Waterdown

Ward 15 Key Map
N.T.S.
Front residential façade and existing garage

Rear yard and gate to proposed garage
Elevations of proposed garage

Plans for proposed garage
Site plan showing proposed and existing garage

Appendix “C” to Report PED09207
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